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In the Supreme Court of the United States

OCTOBER TERM, 1947

No. 502

FOREMAN'S ASSOCIATION OF AMERICA, PETITIONER

v.

L. A. YOUNG SPRING & WIRE CORPORATION AND NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD

OPINIONS BELOW

The opinion of the court below accompanying the decision setting aside the Board's order (R. 226–229) is reported at 163 F. 2d 905. The order denying petitioner leave to intervene (R. 235) was not accompanied by an opinion. The decision and order of the National Labor Relations Board (R. 36–51) is reported in 70 N. L. R. B. 868; and the decision and direction of election (R. 194–207) is reported in 65 N. L. R. B. 298.

JURISDICTION

The judgment of the court below was entered on September 29, 1947 (R. 230), and its order denying petitioner leave to intervene was entered on October 29, 1947 (R. 235). The petition for a writ of certiorari was filed on December 29, 1947. The jurisdiction of this Court is invoked under Section 240 of the Judicial Code (28 U. S. C. 347) and Section 262 of the Judicial Code (28 U. S. C. 377).

STATUTES INVOLVED

The pertinent provisions of the National Labor Relations Act (49 Stat. 449, 29 U. S. C. 151, *et seq.*) and the Labor Management Relations Act, 1947 (Public Law No. 101, 80th Cong., 1st Sess., c. 120, effective August 22, 1947) are set forth in the Appendix, *infra,* pp. 17–22.

QUESTIONS PRESENTED

1. Whether the denial by the court below of a motion to intervene, made by a labor organization in accordance with Rule 24 of the Federal Rules of Civil Procedure, was properly within the court's discretion, where the court, without affording any of the parties a hearing on the issue, had held the order of the Board requiring an employer to bargain with the labor organization unenforceable because of the intervening enactment of the Labor Management Relations Act, 1947.

2. Whether Sections 2 (3), 2 (11) and 14 (a) of the National Labor Relations Act, as amended

by the Labor Management Relations Act, 1947, which exclude individuals employed as supervisors from the term "employee" as used in the Act, violate the First and Fifth Amendments to the Constitution of the United States.

3. Whether Section 103 of the Labor Management Relations Act, 1947, which provides that the amendments of the National Labor Relations Act shall not affect any certification of representatives made prior to the effective date of the amendments until one year after the date of such certification, is applicable to a certification of representatives of supervisors who subsequent to the amendments are not employees within the meaning of the Act.

STATEMENT

Upon the usual proceedings under Section 10 of the National Labor Relations Act, the Board issued its findings of fact, conclusions of law, and order (R. 26–51). Briefly summarized, the facts, as found by the Board, are as follows:

L. A. Young Spring and Wire Corporation (hereinafter called the employer), is a Michigan Corporation engaged in the manufacture, distribution and sale of spring wire products, and operates among others a plant located at Los Angeles, California, which plant is the only one involved in the instant case. The employer has conceded that it is engaged in interstate commerce (R. 224–225). Foreman's Association of Amer-

ica, Chapter No. 155, hereinafter called the Association, is a labor organization admitting to membership supervisory employees of the company (R. 39, 195).

Upon a petition duly filed by the Association, the Board conducted the usual investigation and hearing under Section 9 of the Act and issued a decision and direction of election (65 N. L. R. B. 298; R. 194–207), finding that all foremen and assistant foremen employed by the company at its Los Angeles plant were employees within the meaning of the Act and constituted a unit appropriate for collective bargaining. After an election which was won by the Association, the Board, on February 13, 1946, certified the Association as the exclusive bargaining representative of the supervisory employees in the aforementioned unit (R. 207–208).

Thereafter, charges having been filed by the Association, the Board held a hearing and on August 26, 1946, issued its decision and order (70 N. L. R. B. 868; R. 26–51) finding that the employer had violated Section 8 (5) and (1) of the Act by refusing to bargain collectively with the Association. The Board's order directed the employer to cease and desist from the unfair labor practices found and to bargain collectively with the Association (R. 16–17, 47–48). The Association was a party to and participated as such in both the representation and unfair labor practice

proceedings before the Board (R. 20, 21, 37, 38, 194–195, 207, 208).

On October 12, 1946, the employer petitioned the United States Court of Appeals for the District of Columbia to review and set aside the Board's order (R. 2–13, 226). It did not name the Association as a party to the suit (R. 2–13). The Board answered on November 12, 1946, denying the allegations in the company's petition and requesting enforcement (R. 14–19, 226). Oral argument on the issues was heard by the court on May 28, 1947 (R. 226).

The court's decision was handed down on September 29, 1947, 163 F. 2d 905 (R. 226–229), and on the same day it entered its judgment setting aside the Board's order (R. 230). In its opinion the court pointed out that but for the intervening enactment of the Labor Management Relations Act, 1947, it would have been bound by this Court's decision in the *Packard* case.[1] It held, however, that the Congress, by redefining the term "employee" to exclude supervisors (Sec. 2 (3) and (11) of the National Labor Relations Act, as amended, *infra,* pp. 19–20), and by removing any legal compulsion upon employers to bargain with supervisory employees (Sec. 14 (a) of the Act, as amended, *infra,* (p. 22), clearly intended to deny the benefits of the Act to such employees. Therefore, since the

[1] *Packard Motor Car Co.* v. *National Labor Relations Board,* 330 U. S. 485.

Board's order would operate *in futuro* it held that the order should not be enforced (R. 226–229).

On October 14, 1947, the Association moved the court below for leave to intervene and for rehearing (R. 231–234). In its petition, the Association described its participation before the Board in both the representation and unfair labor practice proceedings, asserted that by reason of its certification it had an interest in the determination of the case, and stated that prior to the enactment of the Labor Management Relations Act the Board's interest was the same as the Association's and that it therefore had relied upon the Board to protect its interest. The Association further alleged that upon passage of the amendatory legislation, the Board could no longer protect its interest and only the Association could raise the question of the constitutionality of the amendments and their effect upon the issues in the instant case (R. 231–234). The motion was denied without opinion on October 29, 1947 (R. 235).

ARGUMENT

The Board believes that the court below properly refused to enforce the order directing the employer to bargain with the Association. The Board is in agreement with the court below that the amendments to the National Labor Relations Act changed the law so that subsequent to August 22, 1947, an employer could not be required to bargain collectively with representatives of super-

visors. Since the Board's order in its entirety was concerned with governing future bargaining relationships between an employer and a representative of supervisors, the enforcement of such an order would be inconsistent with the present policy of the Act. Although no argument was presented on those points, the court below, in denying enforcement of the order, impliedly upheld the constitutionality of the Congressional exemption of supervisors from the coverage of the Act, and the inapplicability of section 103 of the Labor Management Relations Act to the certification in the instant case. Even before the court below issued its decision, the Board had determined that "it would not effectuate the policies of the Act, as amended" to issue any further orders requiring employers to bargain with representatives of supervisors. *Matter of Westinghouse Electric Corp.*, 75 N. L. R. B., No. 1 (September 29, 1947). And subsequent to the decision below the Board has uniformly applied the same rule, citing the court's decision in support of its position. *Matter of Aluminum Company of America*, 75 N. L. R. B., No. 3; *Matter of Columbia Steel Company*, 75 N. L. R. B., No. 4; *Matter of M. P. Moller, Inc.*, 75 N. L. R. B., No. 5; *Matter of Peoples Life Insurance Company of Washington, D. C.*, 75 N. L. R. B., No. 6; *Matter of Tide Water Associated Oil Company*, 75 N. L. R. B., No. 7; and *Matter of The White Motor Company*, 75 N. L. R. B., No. 8.

1. The Association, as the petitioning labor organization in the representation proceedings and the charging labor organization in the unfair labor practice proceeding, was properly a party in both proceedings before the Board (Rules and Regulations of the National Labor Relations Board, series 3, as amended, secs. 202.5, 202.25, 202.34, 203.3, 203.7, 8 F. R. 16047 *et seq.*). As such it participated in the hearings and in oral argument before the Board (R. 194, 37–38, 55–56, 75–77, 82–84, 95–100, 115, 118, 120–122, 123–124, 127–129, 132–133, 134–135, 136–144, 146). The employer in petitioning the court below for review did not make the Association a party to the case (R. 2–13). Nor did the Association ask to be made a party prior to the entry of the judgment below. However, the Association is correct in the assertions made in its petition for certiorari (pp. 6, 9) and in its petition for leave to intervene (R. 232) that prior to the enactment of the Labor Management Relations Act the Board, in its efforts to enforce its order in the public interest, fully represented and defended all interests which the Association had in the proceeding. It is also true as the Association asserts (Pet. 11), that the court below on its own motion set aside the Board's order on the ground that the Labor Management Relations Act precluded enforcement, without affording the parties an opportunity to be heard on this issue. The Board does not question the Association's interest in

the decision of that question, nor does it deny that the court below could properly have permitted the Association to intervene. Such intervention has been permitted by this Court and by the Circuit Courts of Appeals in numerous cases. *Edward G. Budd Mfg. Co.* v. *National Labor Relations Board,* No. 301, October Term, 1947, December 15, 1947; *International Union of Mine Workers* v. *Eagle-Picher Mining and Smelting Co.,* 325 U. S. 335, 338; *Packard Motor Car Company* v. *National Labor Relations Board,* 330 U. S. 485; *Humble Oil and Refining Co.* v. *National Labor Relations Board,* 113 F. 2d 85, 87, 93 (C. C. A. 5). Cf. *Aluminum Ore Co.* v. *National Labor Relations Board,* 131 F. 2d 485, 488 (C. C. A. 7). Had the petition for leave to intervene been granted by the court below, the Association would then have been a proper party in interest to seek review of the court's decision. *International Union of Mine Workers* v. *Eagle-Picher Mining and Smelting Co., supra; International Association of Machinists* v. *National Labor Relations Board,* 311 U. S. 72, 74; *Consolidated Edison Company* v. *National Labor Relations Board,* 305 U. S. 197, 218, 233; *Fishgold* v. *Sullivan Drydock and Repair Corp.,* 328 U. S. 275; *Williams* v. *Morgan,* 111 U. S. 684, 696; *Tucker* v. *Alexandroff,* 183 U. S. 424. This Court has on occasion granted certiorari on the question of the denial by a court below of a

petition for leave to intervene. *Brotherhood of R. R. Trainmen* v. *Baltimore and Ohio R. Co.*, 331 U. S. 519; *Missouri-Kansas Pipe Line Co.* v. *United States*, 312 U. S. 502;[2] *French* v. *Gapen*, 105 U. S. 509; *Leary* v. *United States*, 224 U. S. 567. See also *United States* v. *California Co-op. Canneries*, 279 U. S. 553; *Credits Commutation Co.* v. *United States*, 177 U. S. 311; *New York* v. *New York Telephone Co.*, 261 U. S. 312. Cf. *Ex Parte Cutting*, 94 U. S. 14; *Smith* v. *Gale*, 144 U. S. 509; *Ex Parte Leaf Tobacco Board of Trade*, 222 U. S. 578.

2. The Association contends that sections 2 (3) and (11) and 14 (a) of the Act, as amended, (*infra*, pp. 19–20, 22) are in conflict with the First and Fifth Amendments to the United States Constitution and therefore invalid insofar as they deny the benefits of the National Labor Relations

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[2] It is to be noted that the employer, in its brief in opposition to the petition, cites *Missouri-Kansas Pipe Line Co.* v. *United States*, 108 F. 2d 614 (C. C. A. 3), certiorari denied, 309 U. S. 687, in support of its position that this Court lacks jurisdiction to entertain the appeal. The case cited is not authority for that proposition. In that case the Circuit Court of Appeals dismissed the appeal from the denial by the district court of leave to intervene on the ground that circuit courts lacked jurisdiction, inasmuch as the statute under which the suit was brought required that appeals from the district courts be taken directly to the Supreme Court. When the petitioners then properly applied for review of the district court's decision in this Court the application was granted and after hearing the district court was reversed. 312 U. S. 502.

Act to supervisory employees. There is nothing in the Act which discriminates against the right of supervisors to express opinions, and section 14 (a) specifically reserves to them the right to form and join labor organizations. We therefore see no basis for the contention that the rights guaranteed to the members of the Association by the First Amendment have in any way been prejudiced.

Nor is the exclusion of supervisors from the definition of "employee" so discriminatory as to be an abuse of the legislative power and therefore violative of the Fifth Amendment. Congress can, for its purposes, set up classifications of persons and differentiate in the treatment of the various classes, so long as all persons within each class are treated alike. Thus, Congress, as in the National Labor Relations Act, has in the Social Security Act (42 U. S. C. 409, 1107) exempted and excepted certain classes of persons from the operations of the statute, such as agricultural, charitable, domestic and educational employees and employees of employers employing less than eight persons, and this Court has upheld such differentiation of treatment. *Carmichael* v. *Southern Coal Co.,* 301 U. S. 495, 509–513; *Helvering* v. *Davis,* 301 U. S. 619, 646; *Steward Machine Co.* v. *Davis,* 301 U. S. 548, 584–585. Similarly, exemptions such as administrative, agricultural, and professional employees, outside salesmen, sea-

men, fishermen, and employees of certain small newspapers, under the Fair Labor Standards Act (29 U. S. C. 213) have been held to be valid. See *Mabee* v. *White Plains Publishing Co.*, 327 U. S. 178, 184. It is therefore evident that Congress, by its Constitutional power to regulate commerce, could include supervisors as employees under the Act, *Packard Motor Car Co.* v. *National Labor Relations Board,* 330 U. S. 485, or exclude them as it has by the recent amendments. *Wickard* v. *Filburn,* 317 U. S. 111; *United States* v. *Carolene Products Co.,* 304 U. S. 144; *Velasquez* v. *United States,* 131 F. 2d 916 (C. C. A. 1), certiorari denied, 319 U. S. 770; *Taylor* v. *Brown,* 137 F. 2d 654 (Em. Ct. App.). It is well established that this Court will not inquire into the necessity for such classification if it is not patently irrational and unjustifiable. *McCulloch* v. *Maryland,* 4 Wheat. 316, 422.

When the *Packard* case (*supra*) was being considered, no one argued that the position subsequently taken by the minority of this Court would be unconstitutional. Nor did the Board, in grappling with the problem of the interpretation of "employee" under the original Act, ever consider that any constitutional issue might be involved.[3]

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[3] *Matter of Union Collieries Coal Co.*, 41 N. L. R. B. 961 and 44 N. L. R. B. 165; *Matter of Maryland Drydock Company*, 49 N. L. R. B. 733; *Matter of Packard Motor Car Company*, 61 N. L. R. B. 4. For a detailed report of the

It would therefore seem clear that the petition raises no substantial constitutional question. Nor has there been any conflict of decisions on this point. However, if the Court should regard the constitutional issue as substantial, the Board would not regard this as an inappropriate case for review, even though we believe the decision below to be entirely correct. If the Court decides to review the intervention question, it of course has jurisdiction to determine all questions raised in the petition. *Watts, Watts & Co.* v. *Unione Austriaca, etc.*, 248 U. S. 9; *Donovan* v. *Pennsylvania Co.*, 199 U. S. 279; *Mutual Life Insurance Co.* v. *Phinney*, 178 U. S. 327; *James-Dickinson Farm Mortgage Co.* v. *Harry*, 273 U. S. 119; *Cole* v. *Ralph*, 252 U. S. 286. In a recent case, where the Association, an intervenor, also questioned the constitutionality of the amendments to the National Labor Relations Act affecting supervisors, the Court remanded the case to the Circuit Court of Appeals for the Sixth Circuit to determine "the question of the validity of that part of the order of the National Labor Relations Board which directs the [employer] to cease and desist from discouraging membership in the Foreman's Association of America." *Edward G. Budd Mfg.*

Board's considerations of the supervisor problem see *Tenth Annual Report of the National Labor Relations Board*, 1945, pp. 30–34.

Co. v. *National Labor Relations Board,* No. 301, October Term, 1947, decided December 15, 1947.

3. Although we are not in agreement with the Association that section 103 of the Labor Management Relations Act (*infra,* p. 22) is applicable to the instant case, we do not oppose review of that contention if the Court should determine to grant certiorari because of the constitutional issue. Because the Board, as stated (*supra,* p. 7), has regarded the amendments to the Act as precluding it from requiring employers to bargain collectively with supervisors, it has not applied section 103 to preserve certifications in situations such as this. The Board has stated its policy in this matter as follows:[4]

> Since the issuance of the Intermediate Report herein, the National Labor Relations Act has been amended so as to exclude "any individual employed as a supervisor" from the definition of "employee" contained in the Act. Supervisory employees are therefore now outside the coverage of the Act. We are therefore of the opinion, without considering the merits of the case, that it would not effectuate the policies of the Act, as amended, to require the respondent to take any remedial action in this case, which involves nothing except a refusal to bargain.

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[4] *Matter of Westinghouse Electric Corp.*, 75 N. L. R. B., No. 1.

In describing section 103 of the Labor Management Relations Act, the Association in its petition for certiorari (p. 3) assumes that this section "requires that a certification of representatives under the National Labor Relations Act, made prior to the enactment of the Labor Management Relations Act, 1947, be given effect for a period of one year after it is recognized by the employer." Actually the language of the section speaks in terms of "one year after the date of such certification."

The Board has not as yet had occasion to pass upon the question as to whether the savings provision of section 103 is applicable to cases wherein the certification was issued more than one year prior to August 22, 1947, the effective date of the amendments to the National Labor Relations Act, but because of the employer's refusal to honor the certification, as in the instant case, collective bargaining has not as yet resulted therefrom. But the Board does not believe that issue is present in this case because it regards section 103 as inapplicable in situations involving persons who are no longer employees within the meaning of the Act.

CONCLUSION

The decision below is correct, and there is no conflict of decisions. If, contrary to our view, the Court should consider the constitutional issue

raised by petitioner to be substantial, the Board, in that event, would not oppose the grant of certiorari.

Respectfully submitted.

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FEBRUARY 1948.

APPENDIX

The relevant provisions of the National Labor Relations Act (Act of July 5, 1935, 49 Stat. 449, 29 U. S. C., 151 *et seq.*) are as follows:

SEC. 2. When used in this Act—

* * * * *

3. The term "employee" shall include any employee, * * *.

* * * * *

SEC. 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

SEC. 8. It shall be an unfair labor practice for an employer—

(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.

* * * * *

(5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of Section 9 (a).

* * * * *

SEC. 10. (e) The Board shall have power to petition any circuit court of appeals of the United States (including the Court of Appeals of the District of Columbia), or if all the circuit courts of appeals to which application may be made are in vacation, any district court of the United States (including the Supreme Court of the District of Columbia), within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such

person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and order of the Board. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. * * * The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347).

(f) Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unfair labor practice in question was alleged to have been engaged in or wherein such person resides or transacts business, or in the Court of Ap-

peals of the District of Columbia, by filing in such a court a written petition praying that the order of the Board be modified or set aside. A copy of such petition shall be forthwith served upon the Board, and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding, certified by the Board, including the pleading and testimony upon which the order complained of was entered and the findings and order of the Board. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e), and shall have the same exclusive jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; and the findings of the Board as to the facts, if supported by evidence, shall in like manner be conclusive.

2. The relevant provisions of the Labor Management Relations Act of 1947 (Public Law 101, 80th Cong., 1st Sess., c. 120) are as follows:

SEC. 101. The National Labor Relations Act is hereby amended to read as follows:

* * * * *

"SEC. 2. When used in this Act—

* * * * *

"(3) The term 'employee' shall include any employee, * * * but shall not include any individual employed * * * as a supervisor, * * *.

* * * * *

"(11) The term 'supervisor' means any

individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

* * * * *

"SEC. 10. * * * (e) The Board shall have power to petition any circuit court of appeals of the United States (including the United States Court of Appeals for the District of Columbia), or if all the circuit courts of appeals to which application may be made are in vacation, any district court of the United States (including the District Court of the United States for the District of Columbia), within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceedings, including the pleadings and testimony upon which such order was entered and the findings and order of the Board. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set

forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. * * * The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347).

"(f) Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unfair labor practice in question was alleged to have been engaged in or wherein such person resides or transacts business, or in the United States Court of Appeals for the District of Columbia, by filing in such court a written petition praying that the order of the Board be modified or set aside. A copy of such petition shall be forthwith served upon the Board, and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding, certified by the Board, including the pleading and testimony upon which the order complained of was entered, and the findings and order of the Board. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e), and shall have the same exclusive jurisdiction to grant to the Board such temporary relief or re-

straining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; the findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive.

* * * * *

"SEC. 14. (a) Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this Act shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining."

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SEC. 103. No provisions of this title shall affect any certification of representatives or any determination as to the appropriate collective-bargaining unit, which was made under section 9 of the National Labor Relations Act prior to the effective date of this title until one year after the date of such certification or if, in respect of any such certification, a collective-bargaining contract was entered into prior to the effective date of this title, until the end of the contract period or until one year after such date, whichever first occurs.

SEC. 104. The amendments made by this title shall take effect sixty days after the date of the enactment of this Act, except that the authority of the President to appoint certain officers conferred upon him by section 3 of the National Labor Relations Act as amended by this title may be exercised forthwith.

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